

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

STATE OF MISSOURI, at the relation and  
to the use of the CITY COLLECTORS OF  
WELLSTON and WINCHESTER, MISSOURI;  
CITY OF UNIVERSITY CITY, MISSOURI;  
CITY OF WELLSTON, MISSOURI; and  
CITY OF WINCHESTER, MISSOURI;

On behalf of themselves and all  
others similarly situated; and

GAIL M. WINHAM;

Individually;

Plaintiffs,

v.

SBC COMMUNICATIONS, INC.;  
SBC LONG DISTANCE INC., f/k/a  
SBC COMMUNICATIONS SERVICES, INC.;  
and SOUTHWESTERN BELL TELEPHONE, L.P.,  
d/b/a SBC MISSOURI, A Missouri Corporation;

Defendants.

No. 4:05-CV-01770-ERW

**ORDER**

This cause coming before the Court upon the parties' Joint Stipulation And Motion For Voluntary Dismissal Without Prejudice, and the Court being fully advised in the premises, finds that said Motion should be GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this cause of action is voluntarily dismissed without prejudice. The Court adopts, recognizes and approves of the

following agreement reached by the parties, the terms of which are necessary to this dismissal:

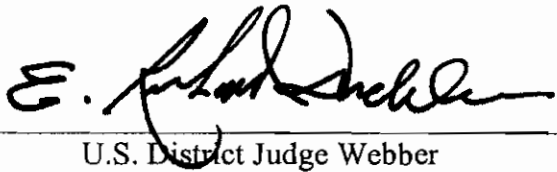
- a. The lawsuit, State of Missouri, et al. v. SBC Communications, Inc., et al., cause no. 4:05-CV-01770-ERW, is voluntarily dismissed without prejudice;
- b. The case and appeal of City of Manchester, Missouri, et al., v. Southwestern Bell Telephone, L.P., et al., cause no. 4:04 CV 01308, shall be voluntarily dismissed without prejudice;
- c. Neither dismissal shall constitute an adjudication on the merits, count as a voluntary dismissal for any purpose, including, but not limited to, the 'two dismissal' rule, or prohibit further action by Plaintiffs and the putative class against Defendants (including parent, subsidiary and related entities) under Missouri Supreme Court Rule 67.02, Fed.R.Civ.P. 41(a)(1), or any similar bar imposed by the common law, statute, or court rule;
- d. Plaintiffs shall file a consolidated master petition in Cities of Wellston and Winchester, Missouri v. SBC Communications, Inc., et al., cause no. 044-02645, currently pending in the Circuit Court of St. Louis City, within thirty (30) days, which consolidates all actions and eliminates redundant claims;
- e. Plaintiffs shall not assert in the consolidated master petition the tort and contract theories that are currently found in the petition in City of Manchester, Missouri, et al., v. Southwestern Bell Telephone, L.P., et al., cause no. 4:04 CV 01308, but they have the right to amend their consolidated master petition to assert such theories at a later date with leave of court and in accordance with law;
- f. Plaintiffs shall not name as defendants in the consolidated master petition the

private individuals – Paul Lane and Jan Newton – who are currently named as defendants in the petition in City of Manchester, Missouri, et al., v. Southwestern Bell Telephone, L.P., et al., cause no. 4:04 CV 01308, but they have the right to amend their consolidated master petition to name such individuals as defendants at a later date with leave of court and in accordance with law;

- g. Defendants (including parent, subsidiary and related entities) shall not remove the claims and causes of action in the consolidated master petition to federal court;
- h. Defendants (including parent, subsidiary and related entities) shall not raise, mention, or cite as precedent Judge Autry's order of dismissal, dated April 28, 2004, for any purpose or as authority against Plaintiffs and the putative class in the state court action – Cities of Wellston and Winchester, Missouri v. SBC Communications, Inc., et al., cause no. 044-02645, currently pending in the Circuit Court of St. Louis City – and any related proceeding;
- i. Defendants (including parent, subsidiary and related entities) shall agree for limitations purposes that the filing date of the state court action – Cities of Wellston and Winchester, Missouri v. SBC Communications, Inc., et al., cause no. 044-02645, currently pending in the Circuit Court of St. Louis City – is August 18, 2004, and that the applicable statute of limitations period will be calculated from that date for Plaintiffs and the putative class;
- j. This stipulation, motion and order can be introduced by any party against another, without further foundation or authentication, should a breach of the stipulation occur; and

- k. Plaintiffs and Defendants may enter into additional agreements, if necessary, to effectuate the spirit and purpose of this stipulation.

Plaintiffs and Defendants shall each bear their own costs of this dismissal, which costs are not taxed against the opposing party.

  
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U.S. District Judge Webber

1-16-07, 2007